the relevant sections of the Penal Code are only applicable where a high degree of negligence has been proved, similar to that which would justify a verdict of manslaughter under English law. In the present case the appellant was driving on a fairly wide road, 23 ft. 7 in. wide. It would appear that it was possible to overtake whilst passing an oncoming car. The manoeuvre attempted was possible but it was unskilfully executed. The injury caused was very serious but somewhat fortuitous. The speed seems to have been considerable but with a good driver it would not have been dangerous. The appellant went too wide but the impact between the two vehicles was more or less a graze. After the first impact the appellant seems to have lost control.

Having regard to all the circumstances of the case I consider that the appellant should have been convicted of dangerous driving and the proper penalty would have been a fine of $200 or 1 month rigorous imprisonment together with disqualification for a period of three years.

The question was raised at the hearing as to the propriety of introducing evidence in these cases, showing that the person charged has consumed alcohol at some time before the accident. In view of the prejudice that can be caused by this kind of evidence I think that this should not be done unless there is serious ground for supposing that the conduct of the person accused has been substantially affected thereby.

Conviction and sentence varied.

Conviction and sentence varied.

CHOO SIEW KOON & ANOR. v. REGINA.

[App. Crim. Juris. (Sir Charles Murray-Aynsley, C.J.) May 21, 1952]

[Singapore — Magistrate's Appeal No. 47 of 1952]

Gaming — Betting by way of wagering or gaming — "Public place" — Meaning of.

The appellants were charged that they, on or about the 15th day of December, 1951, at about 7.45 p.m. at the New World Park, Singapore did gamble in public at a game of chance to wit throwing ring on a numbered board and thereby committed an offence punishable under section 4(8) of the Vagrancy Ordinance, 1939. The appellants were convicted and fined $25 each. Section 4(8) reads as follows:—

> "Every person playing or betting by way of wagering or gaming in any street, road, highway, or other open and public place to which the public have or are permitted to have access, at or with any table or instrument of gaming, or any coin, card, token or other article used as an instrument or means of such wagering or gaming at any game or pretended game of chance."

The game at which the parties are alleged to have gambled is played by throwing small brass rings on to a board enclosed by glass walls about 6 inches high on all sides. The board has 14 rows of numbers running from 0 to 9. Each number is on a raised hemisphere about the size of half a golf ball. The ring fits exactly on to a number, and the construction of the board is such that if a ring is thrown on to it, it is almost bound to come to rest on one number or another. In the rare event of a ring falling between two numbers, it is admitted that a fresh throw is allowed free of charge. According to the Police, members of the public purchase chips at 10 for a dollar and stake them on different numbers according to their choice and then make a throw. If a person succeeds in throwing the ring onto a number on which he has placed a stake, he is given back 8 chips for every one chip staked.

Counsel for the defence contended that the charge cannot stand in law, on the ground that neither the New World Amusement Park nor the stall run by the appellants is a "public place" within the meaning of the section.

Held, that (1) an amusement park is within the definition of "an open and public place to which the public have or are permitted to have access" in the section; (2) the game in question was a game of chance; and (3) a game played even for cigarettes as prizes came within the mischief of the Ordinance.

Case referred to:—

(1) *Langrish v. Archer* (1882), 10 Q.B.D. 44.

MAGISTRATE'S APPEAL.

A. J. Braga for the appellants.

E. P. Shanks (Crown Counsel) for the respondent.

Cur. Adv. Vult.

Sir Charles Murray-Aynsley, C.J. : —It appears that the authorities were minded to rest the legality of a pastime indulged in at a very large number of stalls in the "New World" and other places in this city. For this purpose a party of police visited one of about a hundred stalls in the "New World", produced revolvers and proceeded to handcuff the proprietor and several patrons. This seems excessive. The appellants were charged under section 4(8) of the Vagrancy Ordinance (No. 37 of 1939) and convicted. It appears that the devotees of this form of sport paid a sum of money to the proprietor; in exchange they received metal rings which they threw at a board, the object being to make the ring land on the number which they had previously chosen. If successful they were given cigarettes.

To bring the matter within the section there must be "playing or betting by way or wagering or gaming in any.....open and public place to which the public have or are permitted to have access, at or with any table or instrument of gaming.....at any game or pretended game of chance."

There are three things to be considered: the place whether there was playing or betting by way of wagering

or gaming, and whether there was a game or pretended game of chance.

I think that it can be said that the inside of an amusement park is a place to which the public have or are permitted to have access. The difficulty arises over the question of whether the place is "open". The corresponding section in the Vagrant Act Amendment Act, 1873, was considered in *Langrish v. Archer*[1]. It was held that the inside of a railway carriage when used for conveying passengers was an open and public place within the meaning of the section. That case has not been overruled and I think, can be applied to the present case. I think that the fact that winners received cigarettes instead of money does not prevent gaming or wagering from taking place. As to whether or no this is a game of chance is largely a question of fact and it must, I think, be decided on common sense lines. It may be possibly true that if a person spent as much time in practice as a professional billiard player he might win more often than he would if the matter were one of pure chance, but the sort of person who plays this game is not going to spend his life doing that, and the odds paid show that it is treated by the proprietor as a matter of chance. If any appreciable portion of the public could by their skill improve their chances he could not pay such odds.

The appeal must be dismissed.

Appeal dismissed.

ANG KWEE SENG v. REGINA.

[App. Crim. Juris. (Sir Charles Murray-Aynsley, C.J.) May 21, 1952]

[Singapore — Magistrate's Appeal No. 39 of 1952]

Import and Export — Control of Import and Export Ordinance, 1950, s. 27 — Prohibition of Export Order, 1950, paras. 2(1) and 7.*

The appellant was convicted on 28th February, 1952 on a charge that he did attempt to export 30 bags of rice otherwise than under or in accordance with a licence or permit either general or special issued by or on behalf of the Controller of Imports and Exports and thereby committed an offence under section 27 of the Control of Imports and Exports Ordinance, 1950 read with para. 2(1) of the Prohibition of Export Order, 1950, punishable under para. 7 of the same Order. The appellant pleaded guilty and was convicted and sentenced to a fine of $1,000 or three months rigorous imprisonment, and the 30 bags of rice were ordered to be forfeited.

The appellant appealed against the conviction and sentence and order of forfeiture on the ground that (a) the charge on which he pleaded guilty and on which he was convicted states no offence in point of law; (b) the facts admitted by him disclose no offence in point of law; and (c) the form and phraseology of the charge was misleading and did in fact mislead the appellant, wherefore, he pleaded guilty, when in fact he had committed no offence under the Control Imports and Exports Ordinance, 1950, or the Prohibition of Export Order, 1950.

The statement of facts given by the prosecution after the plea of guilty (which the appellant admitted) consisted only of the information of the complainant, a preventive officer who stated:—

"At 2.10 p.m. on 5.2.52 R.O. 318 and M.S. 16 were on patrol in Customs outboard Motor Launch at the Singapore River opposite the Marine Police Station and there they saw a motor sampan No. SC 6037 coming into the River from the sea. This motor sampan was stopped and R.O. 318 found thirty bags of rice with the accused and the motor sampan man on board.

"R.O. 318 spoke in Malay and asked the accused, Ang Kwee Seng, who claimed ownership of the 30 bags of rice, as to whether he had any import or export permits for his rice. The accused said that he had none and later he produced a chinese document a receipt for 30 bags of rice purchased from a shop Chuan Hup Seng of 330, Beach Road, Singapore. From the accused's statement it was ascertained that he was attempting to export the 30 bags of rice without an export permit. He was stopped at the Singapore River while he was on his way to look for his tongkang with a Taikong whose nickname was Tiong Ah and who was to take the 30 bags of rice to a neighbouring island.

"No permit or licence to export the 30 bags of rice had been issued by the Controller of Imports and Exports or by any person authorised by him in that behalf."

The appeal came before Sir Charles Murray-Aynsley, C.J. who dismissed the appeal on the ground that since the appellant was charged with an offence known to the law he could not go behind that. By way of revision, —

Held, that it was clear from the information of the complainant, a preventive officer, and from the statement of the appellant, that whatever the ultimate intentions of the appellant may have been, there may have been preparation but there was not yet an attempt, and that the Penal Code does not apply and the English cases are applicable, and ordered the conviction to be quashed.

MAGISTRATE'S APPEAL.

S. H. D. Elias for the appellant.

E. P. Shanks for the Crown.

Cur. Adv. Vult.

Sir Charles Murray-Aynsley, C.J. : — In this case the appellant, not being at that time represented, pleaded guilty. Since he was charged with an offence known to the law I cannot go behind that and the appeal against conviction is dismissed.

The appellant had been charged with attempting to export a certain quantity of rice. It is clear from the information of the complainant, a preventive officer, and from the statement of the appellant, that, whatever the ultimate intentions of the appellant may have been,

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Section 27 of the Control of Imports and Exports Ordinance, 1950 reads:

"Any person abets, within the meaning of the Penal Code, the commission of any offence, and any person who attempts to commit any offence, shall be liable to the same punishment as that provided for the offence so abetted or attempted."